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10/604,119

06/26/2003

Karl M. Armagost

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08/23/2005

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EXAMINER

CHEN, TIANJIE

ART UNIT

PAPER NUMBER

2652

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/604,119

**Applicant(s)**

ARMAGOST ET AL.

**Examiner**

Tianjie Chen

**Art Unit**

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## ***Non-Final Rejection***

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-4 in the reply filed on 06/27/2005 is acknowledged. The traversal is on the ground(s) that Group I and II are not independent and distinct inventions because there is a generic claim 1. This is not found persuasive because each of the subcombinations I and II can be used without the other one.

As far as the genetic claim 1 is concerned; as stated in the previous Office action, upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hidano et al (US 5,442,500).

Claim 1, Hidano et al shows a magazine-based data cartridge library in Fig. 2 including: a frame 3a and 3b; a shelf system in 2b (Fig. 2), operatively attached to the

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frame, for supporting at least two data cartridge magazines 30 (Fig. 2; column 4, line 32) and including at least one shelf; a drive 95 (Fig. 2; column 4, line 23) that is operatively attached to the frame; a cartridge transport device 80 (Fig. 2; column 4, lines 25-31), operatively attached to the frame, for moving a data cartridge between a data cartridge magazine and the drive; a magazine transport device 52, operatively attached to the frame, for moving a data cartridge magazine 30 (Fig. 2; column 7, lines 49-55); and an operator alterable space located with a space defined by the frame; wherein the operator alterable space comprises a library mounting structure for receiving a module 2b (Fig. 2), a first side that is exposed to the cartridge transport device 80 (Fig. 3) and a second side that allows an operator to attach a module to the mounting structure.

Claim 2, Hidano et al further shows that a magazine bay assembly module 2b (Fig. 20; column 4, lines 32-36) including: a housing that defines an interior space that is capable of accommodating a data cartridge magazine and an opening for receiving a data cartridge magazine; the housing structure including a magazine bay mounting structure for interfacing with the library mounting structure such that when the magazine bay assembly module is mounted within the space defined by the frame, the opening is exposed to at least one of the magazine transport device and the cartridge transport device.

Claim 4, Hidano et al further shows in Fig. 2 that the magazine bay assembly 2b including a plurality of bays; wherein each of the plurality of bays is capable of accommodating a data cartridge magazine 30.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hidano et al in view of Dimitri (US 5,818,723).

Hidano et al does not show the magazine bay assembly module including a bay guide that is located within the housing and capable of cooperating with a magazine guide for orienting a data cartridge magazine within the housing.

Dimitri shows a library in Figs. 2 and 3 wherein the magazine mount 60 has a magazine guide 64 located within the mount and capable of cooperating with a magazine guide 46 for orienting a data cartridge magazine within the mount.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to add the guiding mechanism taught by Dimitri into Hidano et al's magazine bay assembly module as bay guide such that the bay guide is located within the housing of the bay assembly and capable of cooperating with a magazine guide for orienting a data cartridge magazine within the housing. The rationale is as follows: Dimitri teaches that the guide mechanism would insure the magazine being firmly stored in the magazine mounting position with open end facing disk loader so that the disc can be transported (Column 4, line 35-40). And such guiding mechanism has been commonly used in the art for longtime. One of ordinary skill in the art would

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have been motivated to add the guiding mechanism for firmly mounting the magazine in the bay assembly.

**Conclusion**

4. The prior art made of record in PTO-892 Form and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
TIANJIE CHEN  
PRIMARY EXAMINER